

INVOICE

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Invoice # 36

Date: April 30, 2010

Bill To:

Environmental Protection
BLWQ
17 State House Station
Augusta ME 04333-0017

Vendor Code:

VC1000067626

	Description
	In Lieu Fee for Wetland Compensation \$8,954.00
	DEP Number:
	Internal transfer-invoice
	Fall Brook Phase 3 #L-20543-TG-E-N Check number 315856
	Total \$8,954.00

IN-LIEU-FEE (ILF) PROJECT DATA WORKSHEET

DEP Invoice # 36

[Note: Will be filled in by ILF Administrator in Augusta]

Project name: Phase 3, Fall Brook Improvements

Applicant: City of Portland

DEP/Corps permit #: DEP L-20543-TG-E-N

[Note: Please attach a PDF copy of the permit]

DEP ATS #: 70829

ILF Contribution Amount \$8,954

[Note: Please attach a PDF copy of the check]

Project address: Portland

[Note; Please attach a PDF map of project location]

Biophysical region: Coast of Maine Coastal Lowland Subsection

Size of total impact subject to compensation: 2,200 square feet of freshwater wetland

Resources Impacted: FW

[The resource table on page 2 MUST be filled in with all resource types impacted, amounts and functions.]

Project manager: Robert Green

Note: The ILF Project Data Worksheet must be filled out by the PM within 3 days of receiving a contribution to the "Natural Resource Mitigation Fund" and faxed along with a copy of the check to James Cassida in Augusta at 287-7826. The distribution of ILF contributions is time sensitive.

The PM should also double check to make sure that the check has been routed to Augusta with the correct account number reference. The account # for the ILF program is 014.06A.1776.14

Resource(s) Impacted:

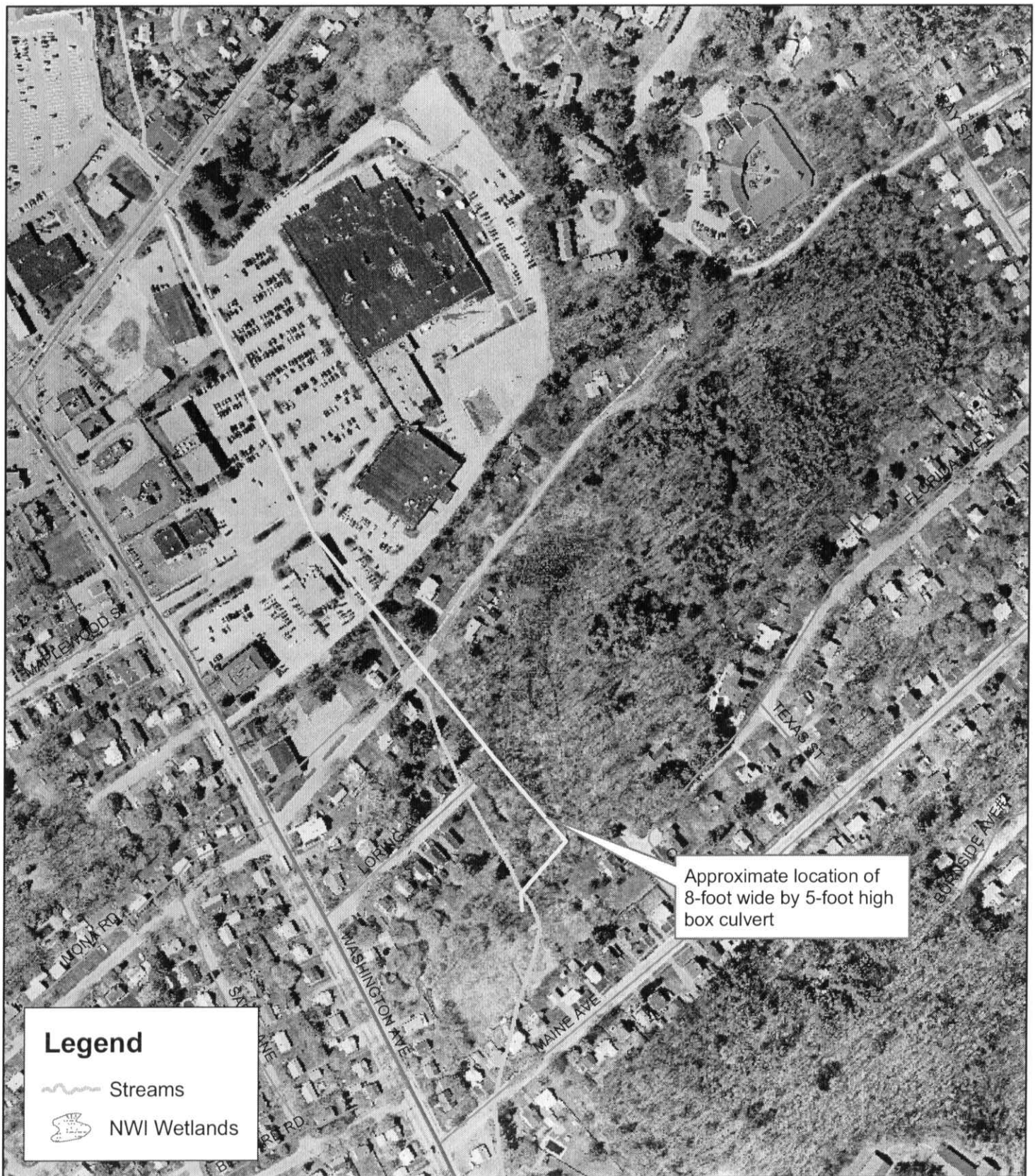
Resource Type: (Wetlands by NWI Type (PFO, PSS, M1, M2, E1, E2, etc), significant vernal pool (SVP), shorebird feeding & staging habitat (Shorebird), inland waterfowl & wading bird habitat (IWWH), tidal waterfowl & wading habitat (TWWH), and river, stream, or brook (RSB).

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alterations (FF); fish & shellfish habitat (FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); wildlife habitat (WH); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ).

Types of impacts: may include filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), others.

Resource type (list all that apply)	Functions (for wetland impacts) (list all that apply, by resource type)	Type of Impact (by resource type)	Sq Feet Impacted (by resource type)
PSS	GWR, FF, STR	Fill	2,200
Total square feet impacted			2,200

Phase 3 - Fall Brook CSO Improvements, Portland
DEP #L-204543-TG-E-N



Map Notes:

- Background hydrologic, topographic and political features are from MEGIS data layers with an accuracy of +/- 40 feet.
- All spatial data is projected to NAD 1983 UTM Zone 19.
- All spatial data is specific to Maine DEP Bureau of Land and Water Quality. Data is maintained by the Maine DEP GIS Unit.
- This map is to be used for reference purposes only and does not represent authoritative locations of displayed features.

Map Prepared By: Robert Green
Maine DEP, BLWQ,
Division of Land Resource Regulation
December 28, 2009

500 250 0 500 Feet

1 inch = 310.32 feet





STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

CITY OF PORTLAND
City of Portland, Cumberland County
PHASE 3, FALL BROOK IMPROVEMENTS
L-20543-TG-E-N (approval)

) NATURAL RESOURCES PROTECTION
) FRESHWATER WETLAND ALTERATION
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of the CITY OF PORTLAND with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: History of Project: In January 1991, the City of Portland and the Portland Water District entered into an Administrative Consent Agreement with the Department. The consent agreement required the City of Portland and Portland Water District to begin a prioritized, long-term program to abate Combined Sewer Overflows (CSOs) in Portland. As a result of this agreement, a Master Plan, dated December 1993, was completed. The Master Plan outlines an aggressive 15-year implementation schedule to abate 39 CSOs contributing to six receiving water bodies. One primary goal of the Master Plan is to eliminate all CSOs in sensitive receiving waters including Fall Brook. To eliminate the CSOs that currently enter into the Fall Brook system, the City of Portland and Portland Water District must first upgrade existing culverts.

The Department has issued several permits along the Fall Brook corridor associated with the separation of the combined sewer overflows. The most recent permit, #L-20543-TH-D-N, dated August 20, 2008, approved the alteration of the Fall Brook stream channel and the filling and alteration of forested freshwater wetlands in order to construct Phase 2 of the Fall Brook Channel Improvements project, located between Milliken Brook and the north side of Maine Avenue in the City of Portland.

B. Summary: The applicant proposes to extend the 8-foot wide by 5-foot high box culvert approximately 1,450 linear feet from its current inlet location just north of Maine Avenue to a point within the Northport Business Park. At this point, the box culvert will be reduced to a 48-inch diameter concrete pipe that will extend 725 feet to a point approximately 60 feet north of Allen Avenue. A second 48-inch diameter concrete pipe will connect at the terminus of the box culvert and run perpendicular to the line of the box culvert approximately 630 feet to a terminus at Washington Avenue.

The applicant is seeking approval under the Natural Resources Protection Act (NRPA) to alter an additional 2,200 square feet of freshwater wetlands to complete Phase 3 of the combined sewer overflow (CSO) abatement project in the Fall Brook watershed. The proposed project will bring the cumulative wetland impacts resulting from the Fall Brook CSO abatement project to 50,724 square feet. The project is shown on a set plans, the first of which is entitled "Fall Brook Phase 3," prepared by Gorrill-Palmer Consulting Engineers, Inc., and dated January 23, 2009, with a last revision date of December 17, 2009. The project site is located between Milliken Brook and the north side of Maine Avenue in the City of Portland.

C. Current Use of the Site: The proposed project is located within the City's sewer right-of-way. The lower portion of the project site is in a wooded residential neighborhood, and the upper portion is within a paved commercial development.

2. TITLE, RIGHT OR INTEREST:

The City of Portland will be working within its existing easement. In situations where the City needs to work outside the city's easement, it has obtained temporary work easements from affected landowners.

3. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site, including an aerial photograph of the project site. Department staff visited the project site on October 30, 2009.

The proposed project is located adjacent to Fall Brook, which is not a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities.

The proposed project was evaluated using the Department's Visual Impact Assessment Matrix and was found to have an acceptable potential visual impact rating. Based on the information submitted in the application, the visual impact rating, and the site visit, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

The Department did not identify any issues involving existing recreational and navigational uses.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the protected natural resource.

4. SOIL EROSION:

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

5. HABITAT CONSIDERATIONS:

Department staff reviewed a Geographic Information System (GIS) database that contains information provided by both the Department of Marine Resources and the Department of Inland Fisheries and Wildlife. The GIS database indicates that there are no Significant Wildlife Habitats as defined in the Natural Resources Protection Act associated with the project site.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

6. WATER QUALITY CONSIDERATIONS:

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State's waters.

7. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to alter 2,200 square feet of freshwater wetland to complete the next phase of the combined sewer overflow abatement project in the Fall Brook watershed with the extension of the 8-foot wide by 5-foot high box culvert approximately 1,450 linear feet. The proposed project will bring the cumulative wetland impacts resulting from the Fall Brook CSO abatement project to 50,724 square feet.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant meet the following standards:

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a freshwater wetland alteration permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternatives analysis for the proposed project completed by William Haskell, PE, of Gorrill-Palmer Consulting Engineers, Inc. and dated October 2009. The alternatives analysis describes the options considered by the City of Portland: (1) to do nothing; (2) to fully separate wastewater and stormwater flows utilizing a new closed stormwater conveyance system; (3) to continue to utilize the Eastside Interceptor running at full capacity with overflows into a stormwater conveyance channel. The project being proposed in this application utilizes alternative #3, as the only constructable alternative that will eliminate CSO #007. The Division of Water Quality Management (DWQM) also reviewed the alternatives analysis and approved this project as part of Portland's CSO Master Plan.

B. Minimal Alteration. The amount of freshwater wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The proposed project must be located within the applicant's right-of-way. As a result, the project will cross wetlands at four locations.

C. Compensation. Compensation is required to achieve the goal of no net loss of wetland and stream functions and values. In accordance with Chapter 310, Section 5C, compensation is required to achieve the goal of no net loss of wetland functions and values. The applicant submitted a functional assessment, dated May, 2008, which described the wetlands to be altered

by the proposed project and identified their primary functions and values as floodflow alteration, groundwater recharge/discharge, and sediment/toxicant retention. Other functions occurring in the wetlands include wildlife habitat, nutrient removal, and production export.

After considering several compensation options, the applicant elected to make a contribution into the Maine Natural Resource Conservation Fund (MNRCF) in the amount of \$8,954 to compensate for the 2,200 square feet of permanent impacts to freshwater wetlands associated with the proposed project. The approval granted pursuant to this Department Order shall not become effective until payment of the \$8,954 is received by the ILF program administrator at 17 State House Station, Augusta, Maine 04333.

The Department finds that the applicant has avoided and minimized wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

8. OTHER CONSIDERATIONS:

The Department did not identify any other issues involving existing scenic, aesthetic, or navigational uses, soil erosion, habitat or fisheries, the natural transfer of soil, natural flow of water, water quality, or flooding.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.

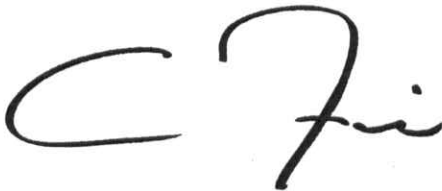
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of the CITY OF PORTLAND to alter an additional 2,200 square feet of freshwater wetlands to complete Phase 3 of the CSO abatement project in the Fall Brook watershed, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The approval granted pursuant to this Department Order shall not become effective until payment of the \$8,954 is received by the ILF program administrator at 17 State House Station, Augusta, Maine 04333.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2010.01.13 09:40:18 -05'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

rlg/ats#70829/120543en



Natural Resource Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other the specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years form the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- G. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.



CITY OF PORTLAND
PORTLAND, MAINE

315856

52-7445
2112

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE A DUAL-TONE TRUE WATERMARK THAT APPEARS AS CONNECTING HEXAGONS WHEN HELD TO THE LIGHT AND "SAFE" APPEARS WHEN VIEWED AT AN ANGLE.

TO THE ORDER OF:

DATE

03-19-2010

VOID IF NOT PRESENTED
NINETY DAYS FROM DATE

PAY EXACTLY

\$*****8,954.00

STATE OF MAINE-DEP
DEPT OF ENVIR. PROTECTION
OIL & HAZARDOUS MATERIALS
STATE HOUSE STATION 155
AUGUSTA ME 04333

Allen Sahn

AUTHORIZED SIGNATURE
REGULAR ACCOUNT

TD BANKNORTH
PORTLAND, MAINE

⑈315856⑈ ⑆211274450⑆ 0291 52692⑈

Travis Lee
PASSER SIGNATURE NOT AUTHORIZED
OVER FIVE THOUSAND DOLLARS

THE FACE OF THIS CHECK HAS A BLUE BACKGROUND - ANY OTHER COLORS MAY BE EVIDENCE OF CHEMICAL ALTERATION OR ERASURE - SEE REVERSE SIDE FOR MORE SAFETY FEATURES.